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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,165	03/25/2004	Pekka Kuore	KOLS 101PA	6814
76385 7590 12/19/2008 Hollingsworth & Funk, LLC 8009 34th Avenue South Suite 125 Minneapolis, MN 54425				
EXAMINER				
PEREZ, JULIO R				
ART UNIT		PAPER NUMBER		
2617				
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12/19/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/809,165

**Applicant(s)**

KUURE ET AL.

**Examiner**

JULIO R. PEREZ

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4, 9-12, 17-20 and 25-28 is/are rejected.  
7) ☒ Claim(s) 5-8, 13-16 and 21-24 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/22/2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 26-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, dependent claims 26, 27, 28 contain limitations disclosing a "on an application level" and communicating between the mobile terminal and the server on an application level. These features are not discussed in the specification.

### ***Claim Objections***

4. Claims 1, 9 are objected to because of the following informalities:

Regarding claim 1, on line 18, insert -- request message -- after "communication connection". Appropriate correction is required.

Regarding claim 9, on line 21, insert -- request message -- after "communication connection". Appropriate correction is required.

Regarding claim 25, on line 22, insert -- request message -- after "communication connection". Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Na et al. (US007031746B2).

Regarding claims 1, 2, 9, 10, Na discloses a method comprising: performing data streaming communication between a mobile terminal and a server connected to a network infrastructure providing a radio interface connection between the mobile terminal and the server, wherein the server is external to the network infrastructure (col. 2, lines 16-32, and 60-65, a transmitted signal from a satellite (read as a sever) is transmitted with data streaming signal; i.e., video on demand, which corresponds to data streaming, and hence is sent for a depository or server, which serves as a sever, or a remote site, and thus must be communicating via a terrestrial network); receiving a communication connection request message from the network infrastructure in the

mobile terminal (col. 5, lines 34-48, describe the system receiving a voice call while the system is processing multimedia signals; thus, it reads on receiving request for a communication connection to the terminal)); indicating reception of the communication connection request to a user of the mobile terminal (col. 5, lines 49-61, shows the user able to take the call, thus ,it reads on indicating to the user of the receiving call); receiving in the mobile terminal a first mode change command generated by the user (col. 5, lines 49-61, describes the user able to answer the call, thus able to change the mode to answering if he/she wishes while the multimedia is in progress; therefore, it reads on first mode change command generated by the user); requesting for suspension of the data streaming communication on the basis of the first mode change command (col. 5, lines 34-61; col. 6, lines 6-17, describe the system able to discontinue processing of multimedia or part of the audio or the video if decided to answer the incoming call); and accepting the communication connection on the basis of the first mode change command (col. 5, lines 34-61; col. 7, lines 29-45, show the call being accepted by the user).

What Na does not explicitly disclose is requesting for suspension of the data from the server.

However, Na strongly suggests the use of the system based a satellite or a gap filler for transmitting digital multimedia signaling. The satellite must have depository means in order to transmit such information as to video demand, and there must some means of communicating a call signal to ten user via some network structure on the ground (col. 4, lines 38-46).

Therefore, it would have obvious to one of ordinary skill in the art at the time the invention was made to implement the system as taught by Na with a server, which provides multimedia data streaming to users, such as video on demand, audio on demand, in order to provide the users with variety of media programming.

~~Regarding claims 3, 11, the combination discloses of claim 1, further including:~~  
generating a communication connection acceptance message on the basis of the first mode change command; requesting for suspension of the data streaming communication on the basis of the communication connection acceptance message; and transmitting the communication connection acceptance message to the network infrastructure (col. 5, lines 34-61; col. 6, lines 6-17).

Regarding claims 4, 12, the combination discloses of claim 1, further generating a transmission suspension message on the basis of the first mode change command, the transmission suspension message informing the server to suspend transmission of the data stream; transmitting the transmission suspension message to the server over the radio interface provided by the network infrastructure; and accepting the communication connection on the basis of the transmission suspension message (col. 5, lines 34-61; col. 6, lines 6-17).

6. Claims 17-20, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Na et al. (US007031746B2).

Regarding claims 17, 18, 25, Na discloses computer process for performing data streaming communication between a mobile terminal and a server connected to a network infrastructure providing a radio interface connecting between the mobile

terminal and the server, wherein the server is external to the network infrastructure (col. 2, lines 16-32, and 60-65, a transmitted signal from a satellite (read as a sever) is transmitted with data streaming signal; i.e., video on demand, which corresponds to data streaming, and hence is sent for a depository or server, which serves as a sever, or a remote site, and thus must be communicating via a terrestrial network); receiving a communication connection request message from the network infrastructure in the mobile terminal (col. 5, lines 34-48, describe the system receiving a voice call while the system is processing multimedia signals; thus, it reads on receiving request for a communication connection to the terminal)); indicating reception of the communication connection request to a user of the mobile terminal (col. 5, lines 49-61, shows the user able to take the call, thus ,it reads on indicating to the user of the receiving call); receiving in the mobile terminal a first mode change command generated by the user (col. 5, lines 49-61, describes the user able to answer the call, thus able to change the mode to answering if he/she wishes while the multimedia is in progress; therefore, it reads on first mode change command generated by the user); requesting for suspension of the data streaming communication on the basis of the first mode change command (col. 5, lines 34-61; col. 6, lines 6-17, describe the system able to discontinue processing of multimedia or part of the audio or the video if decided to answer the incoming call); and accepting the communication connection on the basis of the first mode change command (col. 5, lines 34-61; col. 7, lines 29-45, show the call being accepted by the user).

What Na does not explicitly disclose is requesting for suspension of the data from the server.

However, Na strongly suggests the use of the system based a satellite or a gap filler for transmitting digital multimedia signaling. The satellite must have depository means in order to transmit such information as to video demand, and there must some means of communicating a call signal to ten user via some network structure on the ground (col. 4, lines 38-46).

Therefore, it would have obvious to one of ordinary skill in the art at the time the invention was made to implement the system as taught by Na with a server, which provides multimedia data streaming to users, such as video on demand, audio on demand, in order to provide the users with variety of media programming.

Regarding claim 19, the combination of Xiang and Walker discloses claim 17, generating a communication connection acceptance message on the basis of the first mode change command; requesting for suspension of the data streaming communication on the basis of the communication connection acceptance message); and transmitting the communication connection acceptance message to the network infrastructure (col. 5, lines 34-61; col. 6, lines 6-17).

Regarding claim 20, the combination discloses claim 17, further generating a connection suspension message on the basis of the first mode change command, the connection suspension message requesting the network infrastructure to release a radio connection providing the data streaming communication; and transmitting the



connection suspension message to the network infrastructure (col. 5, lines 34-61; col. 6, lines 6-17).

***Allowable Subject Matter***

7. Claims 5-8, 13-16, 21-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art, either singularly or in combination, teach or fairly suggest wherein generating a connection suspension message on the basis of the first mode change command, the connection suspension message requesting the network infrastructure to release a radio connection providing the data streaming communication; and transmitting the connection suspension message to the network infrastructure, wherein further receiving second mode change command generated by the user; releasing the communication connection on the basis of the second mode change command; and requesting for continuation of the data streaming communication on the basis of the second mode change command, with indicating the reception of the communication connection release message to the user; receiving in the mobile terminal a third mode change command generated by the user; requesting for continuation of the data streaming communication on the basis of the third mode change command.

**Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIO R. PEREZ whose telephone number is (571)272-7846. The examiner can normally be reached on 10:30 - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Eisen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. R. P./  
Examiner, Art Unit 2617

12/10/08

/Alexander Eisen/  
Supervisory Patent Examiner, Art Unit 2617